

TAXATION OF COSTS

a) Within fourteen (14) days after entry of a judgment, under which costs may be claimed, the prevailing party must serve and file a cost bill in the form prescribed by the Court. Within fourteen (14) days after service by any party of its cost bill, any other party may serve and file specific objections to any items setting forth the grounds therefor. The cost bill must itemize the costs claimed and be supported by a certificate of counsel that the costs are correctly stated, were necessarily incurred, and are allowable by law. Not less than twenty-eight (28) days after receipt of a party's cost bill, and objections if any, the Clerk will tax costs and serve copies of the cost bill upon all parties of record. The cost bill should reflect the Clerk's action as to each item contained therein.

b) Generally, the prevailing party is the one who successfully prosecutes the action or successfully defends against it, prevails on the merits of the main issue, and the one in whose favor the decision or verdict is rendered and judgment entered.

c) Costs must be taxed in conformity with the provisions of 28 U.S.C. §§ 1920-1923 and such other provisions of law as may be applicable and such directives as the Court may from time to time issue. Taxable items include:

- 1) Clerk's Fees and Service Fees. Clerk's fees (see 28 U.S.C. § 1920) and service fees are allowable by statute. Fees required to remove a case from the state court to federal court are allowed as follows: fees paid to clerk of state court; fees for service of process in state court; costs of documents attached as exhibits to documents necessarily filed in state court, and fees for witnesses attending depositions before removal.
- 2) Trial Transcripts. The cost of the originals of a trial transcript, a daily transcript and a transcript of matters prior or subsequent to trial, furnished to the Court is taxable at the rate authorized by the Judicial Conference of the United States when either requested by the Court, or prepared pursuant to stipulation. Mere acceptance by the Court does not constitute a request. Copies of transcripts for counsel's own use are not taxable unless approved in advance by the Court.
- 3) Deposition Costs. The prevailing party may recover the following costs relative to depositions used for any purpose in connection with the case: i) the cost of the original deposition plus one copy (where the prevailing party was the noticing party); ii) the cost of a copy of a deposition (where the prevailing party was not the noticing party); and iii) the cost of video-taped depositions. The prevailing party who noticed the deposition may also recover the reasonable expenses incurred for reporter fees, notary fees, and the reporter's/notary's travel and subsistence expenses. In addition, witness fees, whether or not the witness was subpoenaed, are taxable at the same rate as for attendance at trial. The reasonable fee for a necessary interpreter to attend a deposition is also taxable on behalf of the prevailing party. Attorney's fees and expenses incurred in arranging for or taking a deposition are not taxable.
- 4) Witness Fees, Mileage and Subsistence. The rate for witness fees, mileage and subsistence are fixed by statute (see 28 U.S.C. § 1821). Such fees are taxable even though the witness does not take the stand, provided the witness necessarily attends the Court. Such fees are taxable even though the witness attends voluntarily upon request and is not under subpoena. The mileage taxation is that which is traveled based on the most direct route. Mileage fees for travel outside the District must not exceed 100 miles each way without prior Court approval. Witness fees and subsistence are taxable only for the reasonable period during which the witness is within the District. No party will receive witness fees for testifying in his or her own behalf except where a party is subpoenaed to attend Court by the opposing party. Witness fees for officers of a corporation are taxable if the officers are not defendants and recovery is not sought against the officers individually. Fees for expert witnesses are not taxable in a greater amount than that statutorily allowable for ordinary witnesses. Allowance of fees for a witness on deposition must not depend on whether or not the deposition is admitted in evidence.
- 5) Copies of Papers and Exhibits. The cost of an exhibit necessarily attached to a document (or made part of a deposition transcript) required to be filed and served is taxable. The cost of reproducing the required number of copies of the Clerk's record on appeal is allowable.

The cost of copies submitted in lieu of originals because of the convenience of offering counsel or his or her client are not taxable. The cost of reproducing copies of motions, pleadings, notices and other routine case papers is not taxable.

6) Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries.

The reasonable cost of maps, diagrams, visual aids and charts is taxable if they are admitted into evidence. The cost of photographs is taxable if admitted into evidence or attached to documents required to be filed and served on opposing counsel. Enlargements greater than 8" by 10" are not taxable except by order of the Court. The cost of models is not taxable except by order of the Court. The cost of compiling summaries, computations and statistical comparisons is not taxable.

7) Interpreter and Translator Fees. The reasonable fee of a competent interpreter is taxable if the fee of the witness involved is taxable. The reasonable fee of a competent translator is taxable if the document translated is necessarily filed or admitted in evidence.

8) Other Items. Other items may be taxed with prior Court approval.

9) Certificate of Counsel. The certificate of counsel required by 28 U.S.C. § 1924 and the District of Idaho Local Civil and Criminal Rules of Practice must be prima facie evidence of the facts recited therein. The burden is on the opposing party to establish that a claim is incorrectly stated, unnecessary or unreasonable.

d) A review of the decision of the Clerk in the taxation of costs may be taken to the Court on a motion to retax by any party, pursuant to [Federal Rule of Civil Procedure](#) 54(d), upon written notice thereof, served and filed with the Clerk within seven (7) days after the costs have been taxed in the Clerk's office, but not afterwards. The motion to retax must particularly specify the ruling of the Clerk excepted to, and no others will be considered. The motion will be considered and determined upon the same papers and evidence used by the Clerk and upon such memorandum of points and authorities as the Court may require. A hearing may be scheduled at the discretion of the trial judge.

RELATED AUTHORITY

[Fed. R. Civ. P.](#) 54(d)
28 U.S.C. §§ 1821, 1920
